IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

Writ Petition No.1361 of 2006

Ashoka Buildcon Pvt.Ltd. ..Petitioner

vs.

M/s Niphad Sahakari Sakhar
Karkhana Ltd. ..Respondents

Shri R.S.Apte i/b Shri A.A.Garge for petitioner
Shri R.V.More for respondent no.1

CORAM: S.B.MHASE J.
17th April, 2006

P.C.

1. Heard the learned Counsel for the parties.

2. This petition is directed as against the order passed on 8th February,2006b by the District Judge, Nashik in Arbitration Darkhast No.20 of 2005. The award passed in arbitration proceedings is challenged before this Court by filing Arbitration Appeal No.12 of 2005 and in Civil Application No.13 of 2005 this Court stayed the execution and operation of the judgment and award passed on 19th April, 2005 in Misc.Application No.69 of 2003 on condition that the respondents shall deposit 50% of the awarded amount in the High Court and shall furnish bank guarantee for remaining 50% amount. It is admitted by both side Counsel that neither the amount is paid nor the bank guarantee is given. Therefore, the stay order passed by this Court in Civil Application No.13 of 2005 is not operative. However, Shri More, learned Counsel for the respondent states that another Civil Application for

extension of time has been filed and the same is pending before this Court. Learned Counsel for the petitioner states that the said application has been filed after the present writ petition is filed. Let the facts as it is. One thing is clear that as on today there is no stay order issued by this Court which is operative and, therefore, darkhast can proceed. What order to be passed on pending application is the matter to be considered by this Court after hearing both sides and if stay is granted and/or refusedthen that order will come into operation. But as on today it is made clear that there is no stay granted by this Court and, therefore, the executing court can very well proceed with the execution application. Simplicitor pendency of the matter in this court cannot be treated as stay to the proceedings. With these observations, petition is disposed of.

(S.B.MHASE J.)